

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|----------------------------------|---|------------------------------------|
| CLARITY SPORTS | : | CIVIL NO. 1:19-CV-00305(YK) |
| INTERNATIONAL LLC and | : | |
| JASON BERNSTEIN, | : | (Judge Kane) |
| | : | |
| Plaintiffs, | : | |
| | : | (Magistrate Judge Schwab) |
| v. | : | |
| | : | |
| REDLAND SPORTS, <i>et. al.</i> , | : | |
| | : | |
| Defendants. | : | |

ORDER

January 14, 2021

Last month, we issued an Order concerning subpoenas that Defendants had served on Plaintiffs’ cell phone carriers. *Doc. 185*.¹ We ordered the following: “When serving Defendants’ new subpoenas, Defendants shall instruct the carriers they subpoenaed to narrow their responses such that they will provide only information relating to communications between Bernstein and Ries on the one hand and Golladay, Wright-Whitaker, and Saffold on the other.” *Doc. 185 at 5*.

Plaintiffs take issue with the new subpoenas that Defendants have served. Plaintiffs find fault, first, in Defendants’ “subpoena[ing] phone carriers for calls

¹ We assume that the parties are familiar with the facts and procedural history of this matter.

and texts between Bernstein and Ries.” *Doc. 197 at 4*. Second, Plaintiffs object to the new subpoenas’ language instructing the phone carriers to “focus upon” communications to and from Bernstein and Ries and other phone numbers. *Doc. 197 at 5*.

We note at the outset that Defendants have not opposed this motion. *See LR 7.6*. Since this is only a discovery motion, and not a motion to dismiss or a motion for summary judgment, Defendants’ lack of opposition gives us one reason to grant the motion. *Sabol v. Allstate Prop. & Cas. Ins. Co.*, 309 F.R.D. 282, 285 (M.D. Pa. 2015). We have reviewed Defendants’ new subpoenas, however, and we find Plaintiffs’ arguments to be availing. Defendants’ new subpoenas reach too far. They should not include calls and texts *between* Bernstein and Ries. And the term “focus upon” is too vague and too broad: the Court’s prior order was for carriers to “provide only” information relating to these specified communications.

* * * *

IT IS ORDERED that Plaintiffs’ Motion to Quash Subpoenas to Phone Carriers (*Doc. 196*) is **GRANTED**. Therefore, **IT IS FURTHER ORDERED** that:

1. Defendants shall withdraw the subpoenas they have already issued (*see docs. 197-1*).

2. Defendants shall issue new subpoenas that comply with the Court's prior Order (*Doc. 185*) regarding those subpoenas.

S/Susan E. Schwab

Susan E. Schwab

United States Magistrate Judge